



Federal Communications Commission
Washington, D.C. 20554

CC Do 43-22

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OCT 24 1994

October 24, 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

DUCKET FILE COPY ORIGINAL

The Honorable Larry LaRocco
Member, House of Representatives
621 Main Street
Lewistown, Idaho 83501

Dear Congressman LaRocco:

This letter responds to your correspondence on behalf of Lynette Walton regarding charges on her telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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The Honorable Larry LaRocco
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complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,



Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

LARRY LAROCCO

1ST DISTRICT, IDAHO

COMMITTEE ON NATURAL RESOURCES

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS

AT-LARGE WHIP



Congress of the United States
House of Representatives
Washington, DC 20515

September 6, 1994

OLA
cc 800
cc 900

1117 LONGWORTH BUILDING
WASHINGTON, DC 20515-1201
(202) 225-6611

DISTRICT OFFICES

304 N. 8TH STREET
BOISE, ID 83702
(208) 343-4211

109 S. KIMBALL AVENUE
P.O. BOX 67
CALDWELL, ID 83606
(208) 459-2362

621 NORTH STREET
LEWISTON, ID 83801
(208) 748-8884

408 SHERMAN AVENUE
COEUR D'ALENE, ID 83814
(208) 667-2110

4497

Judith L. Harris
Director, Office of Legislative Affairs
Federal Communications Commission
Room 808
1919 M Street, N.W.
Washington, DC 20554

Dear Ms. Harris:

Enclosed is a copy of a letter and supporting document from a constituent of mine, Ms. Lynette A. Walton of Lewiston, Idaho. She is concerned about a matter involving the use of an 800 number that resulted in a billing to her in the amount of \$261.77.

Would you please investigate this matter and furnish me information so that I may respond to Ms. Walton? **Please reply to my Lewiston, Idaho office.**

Thank you very much.

Sincerely,

Larry LaRocco
Member of Congress

LL/cm

cc: Idaho Attorney General Larry EchoHawk
Idaho Public Utilities Commission

August 30, 1994

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SEP 1 1994

Larry LaRocco
621 Main
Lewiston, Idaho 83501

Congressman Larry LaRocco
Lewiston, Idaho 83501

Dear Mr. LaRocco,

I spoke with a representative of yours today, in your office, and he advised me to write a letter informing you of a fraudulent telephone bill that I received concerning a music line. My daughter called a 1-800 number on numerous occasions with the understanding that it was a toll free charge. The first call she made was on May 31, 1994 and the last one was on August 8, 1994. I received these charges with my USWest billing on August 29, 1994. These calls amounted to a total of \$261.77. I have tried numerous times to call the 1-800 number on the billing that is for any questions concerning your bill. This number has been constantly busy even at 3 A.M.

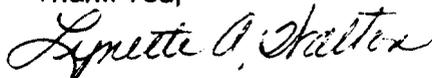
I have spoken with a USWest representative and he has insured me that this will be taken off my USWest billing but that the Music Line, which is thru Omega, Tel, Inc. Tech IV can still hold me liable for these charges. I have been informed that with some 1-800 numbers that when you dial them your call is then directed into a 1-900 number. The USWest representative informed me that they are required to inform you of this but that USWest is finding out that this is not always the case.

There are many reasons I refuse to pay these charges. If I would have been billed in a timely manner, not for four months at a time I could have put a stop to them. Also they were made by a minor child of 13 without my knowledge and without my consent. My daughter was under the impression, as was I, that a 1-800 number was toll free. I have tried to call the music line myself to see what information they had given her but the number has been banned from our calling area, probably because there have been so many complaints.

The US West representative advised me to contact my Congressman and the Idaho Public Utilities Commission concerning this matter. I also understand that the Idaho Attorney Generals Office just recently had a news broadcast concerning this exact thing.

I would appreciate any help you can give me in this matter.

Thank You,



Lynette A. Walton
823 Airway Avenue
Lewiston, Idaho 83501
(208) 743-1899

CC: USWest

August 30, 1994

Tel-America
% Kelly Williams
13499 Biscayne Blvd #207
Miami, Florida 33181

Dear Mr. Williams,

I have received a billing from Omega, Tel, Inc Tech IV Group in the amount of \$261.77 for telephone calls made by my daughter. These calls were made to a 1-800 music line which she was under the impression was toll free. I refuse to pay these charges as they were made by a minor child of 13 without my permission and without my knowledge. Also if I would have been billed for these in a timely manner I could have put a stop to it. The first call was made on May 31, 1994 and the last one on August 8, 1994. I recieved the charges on my USWest bill August 29, 1994. I have tried numerous times to call the 1-800 number that is for any questions concerning your bill and that number is constantly busy, even at 3 A.M.

I have spoken to a USWest representative and this will be removed from my bill. I have also talked with Congressman Larry LaRocco's office and this matter will be taken up with the Idaho Attorney Generals office in Boise and with the Idaho Public Utilities Commission.

Please be advised that this bill will not be paid.

Sincerely,



Lynette A. Walton
823 Airway Avenue
Lewiston, Idaho 83501
(208)743-1899

CC: USWest
Larry LaRocco